## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

**DOCKET NO.:** 2008-0394-PST-E **TCEQ ID:** RN101433456 **CASE NO.:** 35512

**RESPONDENT NAME:** Chris Trout dba CTS C Store 1

ORDER TYPE:				
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING		
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER		
_AMENDED ORDEREMERGENCY ORDER				
CASE TYPE:				
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE		
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION		
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL		
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION		
TYPE OF OPERATION: Convenience sto  SMALL BUSINESS: X Yes 1  OTHER SIGNIFICANT MATTERS: Ther facility location.  INTERESTED PARTIES: No one other that COMMENTS RECEIVED: The Texas Reg  CONTACTS AND MAILING LIST:  TCEQ Attorney/SEP Coordinator TCEQ Enforcement Coordinator Bryan Sinclair, Enforcement Divisis Respondent: Mr. Chris Trout, Own	r: None  There is no record of additional and the ED and the Respondent has expressed an interpretation of the second of additional and the ED and the Respondent has expressed an interpretation of the second of the second of additional and the ED and the Respondent has expressed an interpretation of the second of the secon	al pending enforcement actions regarding this rest in this matter.  No comments were received.  Seement Team 6, MC 128, (512) 239-6580; Mr.		

# RESPONDENT NAME: Chris Trout dba CTS C Store 1

**DOCKET NO.:** 2008-0394-PST-E

#### **VIOLATION SUMMARY CHART:** VIOLATION INFORMATION CORRECTIVE ACTIONS PENALTY CONSIDERATIONS TAKEN/REQUIRED Corrective Actions Taken: Type of Investigation: Total Assessed: \$7,230 \_ Complaint X Routine Total Deferred: \$1,446 1) The Executive Director recognizes that, \_\_\_ Enforcement Follow-up as of March 14, 2008, the Respondent has X Expedited Settlement Records Review implemented the following corrective \_\_Financial Inability to Pay measures at the Facility: Date(s) of Complaints Relating to this Case: None a. Implemented a release detection method **SEP Conditional Offset: \$0** for all USTs at the Facility, and began conducting reconciliation of inventory Date of Investigation Relating to this Total Paid (Due) to General Revenue: \$2,892 Case: February 13, 2008 control records on March 14, 2008: (remaining \$2,892 due in 2 monthly payments of \$1,446 each) b. Successfully conducted the required Date of NOV/NOE Relating to this Case: annual piping tightness test and line leak February 25, 2008 (NOE) **Site Compliance History Classification** detector tests for performance and \_\_\_ High X Average \_\_\_ Poor operational reliability on March 11, 2008; Background Facts: This was a routine investigation. **Person Compliance History Classification** \_\_\_ High X Average \_\_\_ Poor c. Replaced the spill bucket on the super WASTE unleaded tank on March 14, 2008. Major Source: Yes X No 1) Failure to conduct reconciliation of inventory control records at least once a Applicable Penalty Policy: September 2002 month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flowthrough for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. WATER CODE § 26.3475(c)(1)]. 2) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 3) Failure to provide proper release detection for the piping associated with the underground storage tank ("UST") system [30 Tex. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)]. 4) Failure to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket at the super unleaded tank was cracked [30 Tex. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].

Additional ID No(s).: PST 42361

Policy Revision 2 (Septe	Penalty Calc	ulation Work	sheet (P		January 29, 2008
TCEQ				The state of the s	
DATES Assigned PCW	25-Feb-2008 19-May-2008	eb-2008 EPA Due			
RESPONDENT/FACILITY	NFORMATION				
Respondent	Chris Trout dba CTS C Store 1				
Reg. Ent. Ref. No. Facility/Site Region	RN101433456	Major	/Minor Source	Major	
Facility/Site Region	-Dallas/I OIL WOILII			[,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
CASE INFORMATION				<b>6</b>	
Enf./Case ID No.	35512 2008-0394-PST-E	No	of Violations. Order Type		
	Petroleum Storage Tank	En		Wallace Myers	
Multi-Media			EC's Team	Enforcement Team 6	A constitution of the cons
Admin. Penalty \$ L	imit Minimum \$0 Maxi	mum \$10,000			
	Penalty (	Calculation Sec	ction		·
	•			**************************************	\$7,500
TOTAL BASE PENAL	ΓΥ (Sum of violation base	penaities)		Subtotal 1	\$7,500
ADJUSTMENTS (+/-)	TO SUBTOTAL 1				
Subtotals 2-7 are obtain	ed by multiplying the Total Base Penalty (S			ofolo 2: 2: 6 7	\$150
Compliance Histo	<b>y</b>	2% Enhancement	Subt	otals 2, 3, & 7	\$130
Notes	Enhancement for one NOV	without same or similar	violations.		· ·
Culpability	No No	0% Enhancement		Subtotal 4	\$0
Culpability		The state of the s			1000
Notes	The Respondent does no	ot meet the culpability o	riteria.	<u>'</u>	MADE THE CONTRACT
Good Faith Effort	to Comply	10% Reduction		Subtotal 5	\$750
Г	Before NOV NOV to EDPRP/Settl	ement Offer			0.000
Extraordinary Ordinary	X				o volument
N/A	(mark with x)			-	
Notes	The Respondent came into	compliance on March	14, 2008.		
L				i November	60
Approx	Total EB Amounts \$338 cost of Compliance \$2,154	0% Enhancement* *Capped at the Total EB	\$ Amount	Subtotal 6	\$0
				11 86 4.2. USA-1 AI	¢c 000
SUM OF SUBTOTALS	5 <b>1-7</b> (4 1) (4 1) (4 1)			Final Subtotal	\$6,900
	JUSTICE MAY REQUIRE libitotal by the indicated percentage.	5%	6	Adjustment	\$330
Notes	Recommended enhancement				
	compliance associ	ated with violation no. 1	and the same of th	]	<b>47.000</b>
			Final Pe	nalty Amount	\$7,230
STATUTORY LIMIT A	DJUSTMENT		Final Ass	essed Penalty	\$7,230
DEFERRAL		20%	Reduction	Adjustment	-\$1,446
Reduces the Final Assessed Pen	alty by the indicted percentage. (Enter nur			T	
Notes	Deferral offered fo	or expedited settlement	•		
		TORING SERVICE TO HER			\$5,784
PAYABLE PENALTY				19-11	<b>Φ</b> 0,7 64

Screening Date 27-Feb-2008

Docket No. 2008-0394-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

Respondent Chris Trout dba CTS C Store 1

Case ID No. 35512

Reg. Ent. Reference No. RN101433456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Component	v Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
L	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	The constant	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denia of liability, or default orders of this state or the federal government, or any final prohibitor emergency orders issued by the commission		0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liabilit of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final cour judgments or consent decrees without a denial of liability, of this state or the federa government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
	Plea	se Enter Yes or No	
Ì	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal governmen environmental requirements	t No	0%
	Adjustment F	ercentage (Su	htotal 2)
eat Violator (Su	btotal 3)	- •	- 1
No	Adjustment F	Percentage (Su	btotal 3)
pliance History	Person Classification (Subtotal 7)		- 122
Average Pe	Adjustment F	Percentage (Su	btotal 7)
pliance History	Summary	Maria de la composición della	1 12
Compliance History Notes	Enhancement for one NOV without same or similar violations.		90 - A

Screening Date	27-Feb-2008	Docket No. 2008-03	94-PST-E	PCW
Respondent	Chris Trout dba CTS C Store 1		Policy Revision 2 (	September 2002)
Case ID No.	35512		PCW Revision .	January 29, 2008
Reg. Ent. Reference No.	RN101433456			Dallistine (1947
	Petroleum Storage Tank			few drawn and
Enf. Coordinator				to Account and a state of the s
Violation Number	1			· ·
Rule Cite(s)		(1)(B)(ii), (b)(2)(A)(i)(III), (b)( 26.3475(a) and (c)(1)	2) and Tex. Water Code	ann-dala (100 sarida persoda).
Violation Description	Failed to conduct reconciliation of manner sufficiently accurate to d 1% of the total substance flow-the test the line leak detectors at lear reliability and failed to provide pro	etect a release which equals rough for the month plus 130 ast once per year for perforn	or exceeds the sum of 0 gallons. Also, failed to nance and operational	
			Base Penalty	\$10,000
>> Environmental, Property a	and Human Health Matrix	January Marie 177		· At Plan
	Harm	141. july 1. sept. 11. sept. 1	機能性、1.10ではなりできる。 ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・ ・	elli jakini salini
Release	r	nor		down that the
OR Actual		Percent	50%	a sa www.do.
Potential	X	reicein	3078	W. H. Chapter J. Co.
>>Programmatic Matrix		January Commission		And Antiqued
Falsification	Major Moderate Mir	nor	·	· ·
		Percent	0%	1
			1	
Matrix Notes Human hea that are	olth or the environment will or could be protective of human health or envi	be exposed to pollutants whi ronmental receptors as a res	ch would exceed levels sult of the violation.	and Audition and A
	1790 ika 1706 dalam manakepen	Adjustme	nt \$5,000	ork observation
[10] 中國學科的日本中,中國中國共和國新一個的國際基本多世級發展多數計畫的	。   1488年   1487年   1587年	SARIA CINCUSTRIBUTA A SALA	M2L	
				\$5,000
Violation Events				de actional and a more
Number of Vi	olation Events 1	14 Number	of violation days	ship ship and a ship ship ship ship ship ship ship ship
Nambor of V.	oladon Evente	<u> </u>	•	44
	daily			and a second
mark only one with an x	monthly x quarterly semiannual annual single event		Violation Base Penalty	\$5,000
One monthly	event is recommended based on d	ocumentation of the violation	n during the February 13,	** COMPANY OF THE PROPERTY OF
		bruary 27, 2008 screening o		Variable and Artificial Value
Economic Benefit (EB) for th	is violation	Statut	ory Limit Test	(1988) (1
Estimate	d EB Amount	\$336 Viola	ition Final Penalty Total	\$4,820
		***************************************		64 000
	This vio	lation Final Assessed Pen	aity (adjusted for limits)	\$4,820

#### Economic Benefit Worksheet Respondent Chris Trout dba CTS C Store 1 Case ID No. 35512 Reg. Ent. Reference No. RN101433456 Years of Media Petroleum Storage Tank Percent Interest Depreciation Violation No. 1 5.0 Interest Saved Onetime Costs Item Cost Date Required **Final Date EB Amount** Item Description No commas or \$ **Delayed Costs** Egulpment 0.0 Buildings 0.0 0.0 \$0 \$0 \$0 Other (as needed) Engineering/construction 0.0 \$0 \$0 \$0 0.0 Record Keeping System 0,0 \$0 n/a Training/Sampling 0.0 Remediation/Disposal 0.0 \$0 n/a Permit Costs 0.0 \$1,500 14-Mar-2008 Other (as needed) 13-Feb-2008 0.1 n/a Estimated cost to provide a method of release detection for the UST system including reconciliation of inventory Notes for DELAYED costs control records. The date required is the investigation date and the final date is the date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** Disposal 0.0 \$0 Personnel 0,0 \$0 \$0 \$0 \$0 \$0 Inspection/Reporting/Sampling 0.0 \$0 Supplies/equipment 0.0 Financial Assurance [2] 0,0 \$0 13-Feb-2007 11-Mar-2008 ONE-TIME avoided costs [3] \$300 2.0 \$300 Other (as needed) 0.0 \$0 \$0 \$0 Actual cost of conducting piping tightness and line leak detector tests, as per invoice. The date required is one Notes for AVOIDED costs year prior to the investigation date and the final date is the compliance date. \$1,800 TOTAL. \$336 Approx. Cost of Compliance

Screening Da	<b>te</b> 27-Feb-2008	Docket No.	. 2008-0394-PST-E	PCW
<del>_</del>	nt Chris Trout dba CTS C Store 1		Policy	Revision 2 (September 2002)
Case ID N	<b>o.</b> 35512		PC	W Revision January 29, 2008
Reg. Ent. Reference N	o. RN101433456			of the state of th
Media [Statut	e] Petroleum Storage Tank			
Enf. Coordinate	or Wallace Myers			
Violation Numb	11			<b>-1</b>
Rule Cite	s) 30 Tex. Admin. Code § 3	334.51(a)(6) and Tex. \	Nater Code § 26.3475(c)(2)	
Violation Description	Failed to ensure that all spill on operating condition. Specif	and overfill prevention ically, the spill bucket a cracked.	devices are maintained in good it the super unleaded tank was	
			Base Penalt	y \$10,000
>> Environmental, Property				
Relea	Harm se Major Moderate	Minor		,
OR Actu				
Potent			Percent 25%	
>>Programmatic Matrix			N	
_Falsificatio	on Major Moderate	<u>Minor</u>	passanasanasanasanasanasanasanasanasanas	
			Percent 0%	
r de la companya de				<b>1</b> -
Matrix Notes Human h	ealth or the environment will or cou exceed levels that are protective o	of human health or envi	icant amounts of pollutants which ronmental receptors as a result o	
Notes		the violation.		
The state of the s			Adjustment \$7,50	កា
		3.38.3.793[ad]3574C.	Adjustment \$7,50	<u> </u>
				\$2,500
Violation Events	<b>建筑的协会的机构设置等。2008年1935年1919</b> 200年	- en care	pagadha dagusto La sacab	
Number of	Violation Events 1	14	Number of violation days	
·	<u>                                     </u>	1		
	daily			
	monthly		Walstin Boss Bossif	y \$2,500
mark only or with an x	The state of the s		Violation Base Penalt	Ψ2,000
THAN SILV.	semiannual annual			
	single event			
				*************
One quart	erly event is recommended based 2008 investigation to th			
Economic Benefit (EB) for	this violation		Statutory Limit Test	
Ectimo	ited EB Amount	\$2	Violation Final Penalty Tota	\$2,410
Latinia			· · · · · · · · · · · · · · · · · · ·	<u></u>
	This	s violation Final Asse	ssed Penalty (adjusted for limits	\$2,410

	To Barage	conomic l	Benefit W	orks	sheet	is emili green	v458
Respondent	t Chris Trout dba	a CTS C Store 1					
Case ID No							
Reg. Ent. Reference No							
	Petroleum Stor					Library Bridge Co	Years of
Violation No		ago rank				Percent Interest	Depreciation
Violation	<b>,</b> 2						1.79876 3.4977579 7
						5.0	1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	n No commas or \$						
						*	
Delayed Costs	artisti jaki i			din san			
Equipment	\$354	1 13-Feb-2008	14-Mar-2008	0.1	\$0	\$2	\$2
Buildings		4-10-100-1000	TI Mai Loud	0.0	\$0	\$0	\$0
Other (as needed)			THE STREET	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0,0	\$0	n/a	\$0
Record Keeping System		S. Daniel and The Company of the Com		0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	Sold and the state of the state			0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
	Actual cost to	replace the spill but				vestigation and the f	inal date is the
Notes for DELAYED costs			المتعلق المتعلق المتعلق	of comp	with a second to the second second second		
Avoided Costs	s ANN	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	ntering	item (except for	one-time avoided o	osts)
Avoided Costs Disposal	S ANN	VUALIZE [1] avoide	المتعلق المتعلق المتعلق	ntering	item (except for	\$0	osts) \$0
Avoided Costs  Disposal  Personnel	S ANN	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	ntering 0.0 0.0	item (except for \$0	\$0 \$0	sosts) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	S ANN	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0	\$0 \$0 \$0	sosts) \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	S ANN	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0 0.0 0.0 0.0 0.0	tem (except for   \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	\$ ANN	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	s ANI	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0 0.0 0.0 0.0 0.0	tem (except for   \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	S ANI	NUALIZE [1] avoido	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	S ANI	NUALIZE [1] avoido	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	\$ AND	NUALIZE [1] avoid	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	S ANI	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	ANI	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	S ANI	NUALIZE [1] avoide	المتعلق المتعلق المتعلق	0.0   0.0   0.0   0.0   0.0   0.0   0.0	tem (except for   \$0   \$0   \$0   \$0   \$0   \$0   \$0   \$	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

# **Compliance History**

In Number   In N	Customer/Respondent/Owner-Operator:	CN600744122	TROUT, CHRIS		Classification: AVERAGE	Rating: 0.50
REGISTRATION   RECEITMENT   Return	Regulated Entity:	RN101433456	CTS C STORE 1		Classification: AVERAGE	Site Rating: 0.5
TCEO Region: Requiring Compliance History Prepared: February 27, 2008  Agency Decision Requiring Compliance History: February 27, 2008  TCEO, Staff Member to Contact for Additional Information Regarding this Compliance Period: February 27, 2008  TCEO, Staff Member to Contact for Additional Information Regarding this Compliance History  Name: Wallace Myers Phone: 512-239-580  Site Compliance History Components  1. Has the site been in existence and/or operation for the full five year compliance period? Ves 2. Has there been a (known) change in ownership of the site during the compliance period? No  3. If Yes, who is the current cowner? NAA  If Yes, who is the current cowner?  When did the change(s) in ownership occur?  NAA  Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  NAA  Any criminal convictions of the state of Toxas and the federal government.  NIA  C. Chronic excessive emissions events.  NIA  D. The approval dates of investigations (CCEDS Inv. Track. No.)  1 07/08/2004 (276578) 2 0 99/29/2004 (334969) 3 12/17/2007 (611942) 4 0 2022/2008 (618237)  E. Written notices of violations (NOV) (CCEDS Inv. Track. No.)  Data: 07/07/2004 (276578)  Self Report? NO  Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  At the time of the investigation, the facility representative had not ensured that Stage II training documentation for each employee demonstrating proof of attendance and completion of the purpose and correct operating procedure of the Stage II system.  Self Report? NO  Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)  At the time of the investigation, monthly inspections of components were not being performed. These components indice are pressure vacuum railed valves, and Stage II drybreaks. Mr. Trout, Iank owner, stated that monthly inspections were not being performed. These components were not being performed. These components and content on the barge II system.	ID Number(s):		ORAGE TANK	REGIS	TRATION	42361
Detail Compliance History Prepared:   Federal 27, 2008	Location:	1950 N HIGHWAY	78, WYLIE, TX, 75098		Rating Date: 9/1/2007 Re	peat Violator: NO
Agency Decision Requiring Compliance History: Enforcement Compliance Period: February 27, 2003 to February 27, 2008 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Name: Watlace Myers Phone: 512-239-6560  Site Compliance History Components  1. Has the site been in existence and/or operation for the fall five year compliance period? Yes 2. Has there been a (known) change in ownership of the site during the compliance period? No 3. If Yes, who is the current owner? 4. If Yes, who is the current owner? 5. When did the change(s) in ownership occur? 7. NA 7. When did the change(s) in ownership occur? 8. NA 8. Any criminal convictions of the state of Texas and the federal government. 8. NA 9. Those Enforcement Orders, court judgements, and consent decrease of the state of Texas and the federal government. 8. NA 9. The approval dates of investigations. (CCEDS Inv. Track. No.) 9. The approval dates of investigations. (CCEDS Inv. Track. No.) 9. The papproval dates of investigations. (CCEDS Inv. Track. No.) 9. Date: 0707/2004 (276578) 9. Self Report? NO 9. Classification: Minor 1. Classification:	TCEQ Region:	REGION 04 - DFV	V METROPLEX		· · · · · · · · · · · · · · · · · · ·	
Compliance Period:  February 27, 2003 to February 27, 2008  TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  Name: Wallace Myers Phone: \$12-239-6580  Site Compliance History Components  1. Has the site been in existence and/or operation for the full five year compliance period? Yes  1. Has the been a (known) change in ownership of the site during the compliance period? No  3. If Yes, who is the current owner? N/A  4. If Yes, who wastwers the prior owner(s)? N/A  5. When did the change(s) in ownership occur? N/A  6. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  N/A  6. Any criminal convictions of the state of Texas and the federal government.  N/A  7. The approval dates of investigations (CCEDS Inv. Track. No.)  1. 1 0708/2004 (276578) 2. 099/2004 (334895) 3. 12/17/2007 (619452) 4. 02/22/2008 (818237)  E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  Date: 07/07/2004 (276578) 2. Mill of the period of the state of the purpose and correct operating procedure of the Stage II training documentation for each employee domonstrating proof of attendance and completion of the purpose and correct operating procedure of the Stage II system.  Self Report? NO  Cliation: 30 TAC Chapter 115, SubChapter C 115.244(3)  Description: At the time of the investigation, monthly inspections were not being performed. Its investigation, when the performed as required.	Date Compliance History Prepared:	February 27, 2008				
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Name: Wallace Myers Phone: 512-239-5580  Site Compliance History Components  1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (prown) change in ownership of the site during the compliance period? No  3. If Yes, who is the current owner? No  4. If Yes, who was/were the prior owner(s)?  5. When did the change(s) in ownership occur?  Components (Multimedia) for the Site:  A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  NA  B. Any criminal convictions of the state of Texas and the federal government.  NA  C. Chronic excessive emissions events.  N/A  D. The approval dates of investigations. (CCEDS Inv. Track. No.)  1 0706/2004 (276578) 2 09/23/2004 (334985) 3 12/17/2007 (610492) 4 02/22/2008 (610492) 4 02/22/2008 (610492) E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  Description: At the time of the investigation, entity inspections of components were not being performed. At the time of the investigation, entity inspections were not being performed as required.	Agency Decision Requiring Compliance History:	Enforcement			Wile de la constant	
Name:   Wallace Myers   Phone:   512-233-6580	Compliance Period:	February 27, 2003	to February 27, 2008			
Site Compliance History Components  1. Has the site been in existence and/or operation for the full five year compliance period? Yes  2. Has there been a (known) change in ownership of the site during the compliance period? No  3. If Yes, who is the current owner?  4. If Yes, who was/were the prior owner(s)?  5. When did the change(s) in ownership occur?  6. What is the current owner own	TCEQ Staff Member to Contact for Additional In	formation Regarding t	his Compliance History	,	*	
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N/A	F. Environmental audits.					
	N/A					

H. Voluntary on-site compliance assessment dates.

N/A

Type of environmental management systems (EMSs).

G.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CHRIS TROUT DBA CTS C STORE 1	§	
RN101433456	§	ENVIRONMENTAL QUALITY

### AGREED ORDER DOCKET NO. 2008-0394-PST-E

## I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Chris Trout dba CTS C Store 1 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1950 North Highway 78 in Wylie, Collin County, Texas (the "Facility").
- 2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 1, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Seven Thousand Two Hundred Thirty Dollars (\$7,230) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Ninety-Two Dollars (\$2,892) of the administrative penalty and One Thousand Four Hundred Forty-Six Dollars (\$1,446) is deferred contingent upon the Respondent's timely and satisfactory compliance with all

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the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Eight Hundred Ninety-Two Dollars (\$2,892) of the administrative penalty shall be payable in two monthly payments of One Thousand Four Hundred Forty-Six Dollars (\$1,446) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that, as of March 14, 2008, the Respondent has implemented the following corrective measures at the Facility:
  - a. Implemented a release detection method for all USTs at the Facility, and began conducting reconciliation of inventory control records on March 14, 2008;
  - b. Successfully conducted the required annual piping tightness test and line leak detector tests for performance and operational reliability on March 11, 2008; and
  - c. Replaced the spill bucket on the super unleaded tank on March 14, 2008.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

### II. ALLÉGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

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- 1. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flow-through for the month plus 130 gallons, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1), as documented during an investigation conducted on February 13, 2008.
- 2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 13, 2008.
- 3. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2) and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 13, 2008.
- 4. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 Tex. ADMIN. CODE § 334.51(a)(6) and Tex. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on February 13, 2008. Specifically, the spill bucket at the super unleaded tank was cracked.

#### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Chris Trout dba CTS C Store 1, Docket No. 2008-0394-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

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Chris Trout dba CTS C Store 1 DOCKET NO. 2008-0394-PST-E Page 4

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	$\frac{8/25/200}{\text{Date}}$
attached Agreed Order on behalf of the entity ind	attached Agreed Order. I am authorized to agree to the licated below my signature, and I do agree to the terms owledge that the TCEQ, in accepting payment for the esentation.
<ul> <li>timely pay the penalty amount, may result in:</li> <li>A negative impact on compliance history;</li> <li>Greater scrutiny of any permit applications</li> <li>Referral of this case to the Attorney Gen penalties, and/or attorney fees, or to a colle</li> <li>Increased penalties in any future enforcem</li> </ul>	neral's Office for contempt, injunctive relief, additional ection agency; nent actions; l's Office of any future enforcement actions; and y law.
Signature	Date Date
Name (Printed or typed) Authorized Representative of Chris Trout dba CTS C Store 1	Title

**Instructions**: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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